IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

Bail Appl..No. 7222 of 2007()

CRIME NO.416/07 OF NOORANAD POLICE STATION

PETITIONERS :ACCUSED 1 AND 2

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1. ARUN CHANDRAN, S/O RAMACHANDRAN PILLAI, SMITHABHAVANAM, KAVUMPAD, NOORANAD.

2. ANILKUMAR, S/O BHASKARAN UNNITHAN, PUNNAKKAKULANGARA, ULAVAKKAD, NOORANAD.

BY ADV. SRI.RASHEED C.NOORANAD
SRI.P.J.VINOD JOSEPH

RESPONDENTS:

STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7222 of 2007

Dated this the 30th day of November, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 and 2. They are named in the F.I.R. Altogether there are 8 accused persons. 3 of them are named in the F.I.R.

2. The alleged incident took place on 13.11.07. Miscreants who allegedly came in 3 motor cycles armed with dangerous weapons – swords and sticks allegedly unleashed an attack on the victim. Prior animosity is the alleged motive. The crime has been registered promptly. Investigation is in progress. The petitioners apprehend imminent arrest.

3. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They have been falsely implicated in the crime. No such incident whatsoever had taken place in the presence of the petitioners. The petitioners happened to be functionaries of the R.S.S and merely on account of that reason, such false allegations are being raised. It is prayed that anticipatory bail may be granted to the petitioners.

4. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the case diary does

not at all show that the dispute has any political overtones. Prior personal animosity is the only alleged motive, submits the learned Public Prosecutor. In any view of the matter, there are no circumstances whatsoever which would justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C, submits the learned Public prosecutor.

5. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. This, I am satisfied, is a fit case where the petitioners must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

6. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioners surrender before the Investigating Officer or the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-